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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,098	04/27/2001	Vadim Eydelman	208794	9754
23460	7590	12/23/2004		EXAMINER
LEYDIG VOIT & MAYER, LTD				TRAN, PHILIP B
TWO PRUDENTIAL PLAZA, SUITE 4900				
180 NORTH STETSON AVENUE			ART UNIT	PAPER NUMBER
CHICAGO, IL 60601-6780			2155	

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/844,098	EYDELMAN ET AL.	
	Examiner	Art Unit	
	Philip B Tran	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 September 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
 - 4a) Of the above claim(s) 7-14 and 21-28 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 and 15-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 April 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 01/02 and 09/02.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. 12/01/2004.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6 and 15-20, drawn to system and method of data flow compensating classified in class 709, subclass 234.
 - II. Claims 7-14 and 21-28, drawn to a system computer network monitoring, classified in class 709, subclass 224.
2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as system and method of transfer buffer management and buffer overflow control, classified in a different Class/Subclass. Invention II has separate utility such as system and method of detecting or observing an event has occurred that triggers conditions of computers connected through a computer network, classified in a different Class/Subclass. See MPEP § 806.05(d).
3. The inventions are distinct, each from the other, because of the following reasons:
 - (a) These inventions have acquired a separate status in the art as shown by their different classifications.

(b) The search required for each Group is different and not co-extensive for examination purposes.

For example, the searches for the two inventions would not be co-extensive because these Groups would require different searches on PTO's classification class and subclass as following:

the Group I search (claims 1-6 and 15-20) would require use of search Class 709, subclass 234 (not require for the invention II).

the Group II search (claims 7-14 and 21-28) would require use of search Class 709, subclass 224 (not require for the invention I).

For the reasons given above restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48 (b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48 (b) and by the fee required under 37 CFR 1.17 (i).

6. During a telephone conversation with Mr. David Lee (Reg. No. 38,222) on 12/01/2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-6 and 15-20. Affirmation of this election must be made by the applicant in replying to this Office Action. Claims 7-14 and 21-28 are withdrawn from consideration by examiner, 37 CFR 1.142 (b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1-6 and 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Scott et al (Hereafter, Scott), U.S. Pat. No. 5,748,900.

Regarding claim 1, Scott teaches a method to transfer data from a sending application to a receiving application in a computer environment, the method comprising the steps of: if the receiving application posts a receive buffer exceeding a threshold size when posting a send for a pre-selected number of initial data blocks: transferring subsequent data having sizes greater than the threshold size using direct memory access read operations: detecting if the receiving application posts the receive buffer prior to posting the send; if the receiving application posts the receive buffer prior to posting the send: sending data and a RDMA receive advertisement in a message if the receiving application posts a send buffer having a size below the threshold size and one of data and RDMA Read information has not been received [see Col. 2, Line 51 to Col. 3, Line 47 and Col. 5, Lines 20-51 and Col. 9, Line 50 to Col. 10, Line 10].

Regarding claim 2, Scott further teaches the method of claim 1 wherein the step of detecting if the receiving application posts the receive buffer prior to posting the send comprises the steps of: determining if the receiving application posts a large receive buffer, determining if the sending application does a send causing the receive posted by the receiving application to complete, and determining if the receiving application does a small send [see Col. 8, Line 20 to Col. 9, Line 41].

Regarding claims 3-5, Scott further teaches the method of claim 1 further comprising the steps of: detecting if the receiving application posts the receive buffer after posting the send, if the receiving application posts the receive buffer after posting the send: copying data to a send buffer having sufficient space at a beginning of the send buffer to put a receive advertisement in a header when a small send happens, starting a timer, putting the receive advertisement in the header if the receiving application posts a receive buffer exceeding the threshold size before the timer expires, and sending the message, determining if the receiving application posts a large receive buffer, determining if the receiving application performs a small send, and determining if the sending application does a send causing the receive posted by receiving application to complete, and putting a standard header onto the send data if the receiving application does not post a receive buffer exceeding the threshold size before the timer expires [see Col. 2, Line 51 to Col. 3, Line 47 and Col. 5, Lines 20-51 and Col. 9, Line 50 to Col. 10, Line 10].

Regarding claim 6, Scott further teaches the method of claim 1 wherein the computer environment has at least one system area network (= computer network (120)) [see Fig. 1].

Claims 15-20 are rejected under the same rationale set forth above to claims 1-6, respectively.

Other References Cited

9. The following references cited by the examiner but not relied upon are considered pertinent to applicant's disclosure.

- A) Fontenot, U.S. Pat. No. 4,616,359.
- B) Kullander, U.S. Pat. No. 5,315,587.
- C) Loewenstein et al, U.S. Pat. No. 6,141,692.
- D) Kompella et al, U.S. Pat. No. 5,892,754.
- E) Futral et al, U.S. Pat. No. 6,081,851.
- F) Hughes et al, U.S.Pat. No. 6,034,945.

10. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THREE MONTHS, OR THIRTY DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 U.S.C. § 133). EXTENSIONS OF TIME MAY BE OBTAINED UNDER THE PROVISIONS OF 37 CAR 1.136(A).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (571) 272-3991. The Group fax phone number is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam, can be reached on (571) 272-3978.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Philip Tran
Philip B. Tran
Art Unit 2155
December 07, 2004